

Patent 112.P14025

**REMARKS**

The present patent application has been reviewed in light of the Advisory office action, dated May 1, 2006, in which claims 1, 2, 4, 5 and 7-10 are rejected. Claims 1, 2, 4, 5, 7, and 8 are rejected under 35 U.S.C. 102(e). Claims 9 and 10 are rejected under U.S.C. 112, first paragraph.

Claims 1, 2, 4, 5, 7, 8, and 11-14 are pending and presented for examination. Claims 1, 4, and 7 are currently amended. Claims 3, 6, 9, and 10 are cancelled. Claims 11-14 are new. No new matter has been added. Reconsideration and further examination of the claims of the present patent application is respectfully requested in view of the following remarks.

***Claim rejections – 35 USC §112, first paragraph***

Claims 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

In the interest of advancing prosecution as expeditiously as practicable, Assignee is canceling claims 9 and 10. Assignee's cancellation of these claims should not be taken as an indication of concession or agreement with the Examiner's position. Furthermore, Assignee states without reservation that the cancelled matter does not affect the scope of any other claims and that all other claims remain standing.

***Claim rejections – 35 USC §102(e)***

Claims 1, 2, 4, 5, 7, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayakawa (U.S. Patent No. 6,130,993). Assignee does not believe that Hayakawa anticipates Assignee's claims and, therefore, respectfully traverses the rejection. For the sake of clarifying Assignee's position, Assignee has amended claim 1; however, Assignee believes that the amendments do not alter claim scope and therefore believes that no prosecution history estoppel arises from the amendments.

The Examiner takes the position that Hayakawa shows a light-sensing device due to a camera and camera body. In contrast, Assignee's position is that the camera is not a light sensing device as that language is used in the claims and specification. Based upon the Examiner's Advisory Action, Assignee appreciates that it has not made its position fully clear. Assignee has amended claim 1 above; however, this amendment does not alter claim scope.

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Instead, it clarifies for the Examiner the Assignee's position regarding why the claims, both previously and now, patentably distinguish from Hayakawa.

Assignee's position is that a light-sensing device would be interpreted in light of the specification and claims to have the same scope as a "light sensitive charge storage device," neither of which are neither shown nor described by Hayakawa. Because the cited patent does not include at least one element of the rejected claim, here claim 1, it is not anticipated.

It is noted that the claimed subject matter may be patentably distinguished from the cited patent for additional reasons; however, the forgoing is believed to be sufficient. It is, therefore, respectfully requested that the rejection be withdrawn.

The remaining claims also distinguish as they at least contain the same or similar limitations as claim 1.

Likewise, it is noted that Assignee's failure to comment directly upon any of the positions asserted by Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

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**Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Respectfully submitted,  
Berkeley Law & Technology Group, LLC

Dated: \_\_\_\_\_

*8/15/06*

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